IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

APPEAL FROM ORDER NO.964 OF 2005
WITH
CIVIL APPLICATION NO.1134 OF 2005

Sou. Anjanabai Rajaram Jagtap & Ors. ...Appellants.
Vs.
Bebi Dashrath Kamble & Ors. ...Respondents.

....

Mr. S. M. Mirajkar h/s. Mr.G. S. Godbole for the Appellants.

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CORAM : DR. D.Y. CHANDRACHUD, J.

December 5, 2005.

P.C.:

The Learned Trial Judge has furnished adequate reasons for declining to grant interim relief in a suit for specific performance. The Third Defendant was admittedly not a party to the agreement since it is not executed by him. The agreement does not show that the possession was handed over. Though there is purportedly a possession receipt, the 7x12 extracts continued to reflect the joint possession of the Defendants. Whether the Appellants are entitled to the benefit of Section 53A of the Transfer of Property Act, 1882, is a matter which is undoubtedly to be decided at the trial. The observations contained

in the impugned order are confined to the disposal of the application for interim relief. There is no merit in the appeal which is accordingly dismissed.

In view of the disposal of the appeal, the Civil Application does not survive and is accordingly disposed of.

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